

United States Court of Appeals

For the First Circuit

No. 02-2401

SAVRY KEO,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent

Before

Lynch, Lipez and Howard,
Circuit Judges.

ORDER OF COURT

Entered: October 29, 2003

After his application for asylum and withholding of deportation was denied by Immigration Judge Thomas Ragno, Savry Keo appealed to the Board of Immigration Appeals. The BIA affirmed that decision without opinion. Keo thereafter sought review of the BIA's determination in this court, claiming primarily that its denial of his application was not supported by substantial evidence. This court affirmed the BIA decision on August 22, 2003, concluding that the record did not compel a conclusion contrary to that reached by the IJ. Keo v. Ashcroft, 341 F.3d 57 (1st Cir. 2003).

On September 19, 2003, Keo filed with this court a motion to stay deportation. According to the motion, Judge Ragno had been placed on administrative leave on August 4, 2003, pending the resolution of several allegations of bias and judicial misconduct. Given the apparent severity of some of these claims, we issued an order on September 22, 2003, directing the respondent to file a response to Keo's motion and directing Keo to supplement his motion with specific examples of how Judge Ragno's alleged bias manifested itself in his hearing. Both parties filed their responses by the allotted date of September 30, 2003. Petitioner also filed a petition for rehearing. Mandate of this court does not issue until resolution of a petition for rehearing is decided. See Fed. R. App. Proc. 41(d)(1).

At the request of the Court the respondent has now made two

filings in response to Keo's claims of bias. On consideration of all of the materials the Court has determined that Keo has not met his burden under the four-part test of Arevalo v. Ashcroft, 344 F.3d 1 (1st Cir. 2003) in order to obtain a stay. Accordingly, the motion for stay is denied. The petition for panel rehearing is also denied.

We repeat our earlier conclusion, the order permitting voluntary departure stands.

By the Court:
RICHARD CUSHING DONOVAN, Clerk

By: /s/
Mark R. Syska, Chief Deputy Clerk